

Maine Revised Statutes
Title 35-A: PUBLIC UTILITIES
Chapter 31: GENERAL PROVISIONS

§3132. CONSTRUCTION OF TRANSMISSION LINES PROHIBITED WITHOUT PRIOR ORDER OF THE COMMISSION

Except as provided in subsection 1-B, a person may not construct any transmission line covered by subsection 2 or rebuild or relocate any transmission line as investigated by the commission under subsection 3 unless the commission has issued a certificate of public convenience and necessity approving construction. [2007, c. 148, §1 (AMD).]

1. Construction of generating facility and resulting line.

[1999, c. 398, Pt. A, §§104, 105 (AFF); 1999, c. 398, Pt. A, §46 (RP) .]

1-A. Purchase of capacity or energy and resulting line.

[1999, c. 398, Pt. A, §§104, 105 (AFF); 1999, c. 398, Pt. A, §46 (RP) .]

1-B. Exception; generator interconnection transmission facility. The construction of a generator interconnection transmission facility is not subject to the requirements of this section. For the purposes of this subsection, "generator interconnection transmission facility" means a transmission line, together with all associated equipment and facilities, that is constructed, owned and operated by a generator of electricity solely for the purpose of electrically and physically interconnecting such generator to the transmission system of a transmission and distribution utility.

[2007, c. 148, §2 (NEW) .]

2. Construction of transmission line. Except as otherwise provided in subsection 3-A, whenever any person proposes to erect within this State a transmission line capable of operating at 69 kilovolts or more, that person shall file a petition for the approval of the proposed line in accordance with subsection 2-C. The petition for approval must be set down for public hearing. The commission shall issue its order within 6 months after the petition is filed unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control, be unreasonably disadvantaged unless the extension were granted, as long as the party to that time had prosecuted its case in good faith and with due diligence.

At the time of filing of a petition for approval of a proposed line under this section, the person filing the petition shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

[2009, c. 309, §1 (AMD) .]

2-A. Other projects requiring approval.

[2009, c. 123, §1 (RP) .]

2-B. Standards for certain projects.

[2009, c. 123, §2 (RP) .]

2-C. Petition for approval of proposed transmission line. The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes, including, but not limited to:

A. A description of the effect of the proposed transmission line on public health and safety and scenic, historic, recreational and environmental values and of the proximity of the proposed transmission line to inhabited dwellings; [2009, c. 309, §2 (NEW).]

B. Justification for adoption of the route selected, including comparison with alternative routes that are environmentally, technically and economically practical; [2013, c. 369, Pt. C, §2 (AMD).]

C. Results of an investigation by an independent 3rd party, which may be the commission or a contractor selected by the commission, of nontransmission alternatives to construction of the proposed transmission line. The investigation must set forth the total projected costs of the transmission line as well as the total projected costs of the alternatives over the effective life of the proposed transmission line; and [2013, c. 369, Pt. C, §2 (AMD).]

D. A description of the need for the proposed transmission line. [2013, c. 369, Pt. C, §3 (NEW).]

[2013, c. 369, Pt. C, §§2, 3 (AMD).]

3. Transmission line rebuilding or relocation projects. Each transmission and distribution utility shall file annually with the commission a schedule of transmission line rebuilding or relocation projects that it intends to carry out during the next 5 years concerning transmission lines that will become, or will remain at, voltages of 69 kilovolts or more. The schedule must describe each project, showing the length, location and estimated cost.

If the commission determines that an investigation of any transmission line rebuilding or relocation project is warranted, it shall notify the transmission and distribution utility within 60 days of the annual filing and the transmission and distribution utility is then required to comply with the provisions of this section with respect to that project. The absence of commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

[2009, c. 123, §3 (AMD).]

3-A. Minor transmission line construction projects. Each domestic transmission and distribution utility shall file annually with the commission a schedule of minor transmission line construction projects that it intends to carry out during the next 5 years concerning transmission lines that will be capable of operating at 69 kilovolts or more. A minor transmission line construction project is a transmission line construction project the cost of which does not exceed 25% of the utility's current annual transmission property depreciation charge. The schedule must describe each project, showing the length, location and estimated cost.

If the commission determines that an investigation of any minor transmission line construction project is warranted, it shall notify the transmission and distribution utility within 60 days of the annual filing and the utility must then comply with the provisions of this section with respect to that project. The absence of commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

[2009, c. 123, §4 (AMD).]

4. Corridor of proposed transmission line. The person filing a petition under this section for approval of a proposed transmission line shall submit a map to the commission with its application. The map must:

A. Be available to the public at the offices of the commission and at the local town office where any portion of the proposed transmission line is to be located; [1991, c. 640, §3 (AMD).]

B. Indicate the proposed corridor or corridors of the transmission line and a description of any planned equipment and facilities to be placed there; and [1991, c. 640, §3 (AMD).]

C. Be prepared in cooperation with the appropriate natural resource protection agencies and the affected municipalities. [1991, c. 640, §3 (NEW).]

[2007, c. 148, §4 (AMD) .]

5. Commission approval of a proposed line. The commission may approve or disapprove all or portions of a proposed transmission line and shall make such orders regarding its character, size, installation and maintenance as are necessary, having regard for any increased costs caused by the orders. The commission shall give preference to the nontransmission alternatives that have been identified as able to address the identified need for the proposed transmission line at lower total cost to ratepayers in this State. When the costs to ratepayers in this State of the identified nontransmission alternatives are reasonably equal, the commission shall give preference to the alternatives that produce the lowest amount of local air emissions, including greenhouse gas emissions.

[2013, c. 369, Pt. C, §4 (AMD) .]

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. The commission shall make specific findings with regard to the likelihood that nontransmission alternatives can sufficiently address the identified public need over the effective life of the transmission line at lower total cost. Except as provided in subsection 6-A for a high-impact electric transmission line and in accordance with subsection 6-B regarding nontransmission alternatives, if the commission finds that a public need exists, after considering whether the need can be economically and reliably met using nontransmission alternatives, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, state renewable energy generation goals, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

[2013, c. 369, Pt. C, §5 (AMD) .]

6-A. High-impact electric transmission line; certificate of public convenience and necessity. The commission shall evaluate and render a decision on any petition for a certificate of public convenience and necessity for a high-impact transmission line in accordance with section 122, subsection 1-D.

[2009, c. 655, Pt. A, §5 (NEW) .]

6-B. Reasonable consideration of nontransmission alternatives.

[2013, c. 369, Pt. C, §6 (NEW); T. 35-A, §3132, sub-§6-B (RP) .]

7. Environmental protection agency modification. If the commission has issued a certificate of public convenience and necessity for a proposed transmission line and the Department of Environmental Protection in an order issued under Title 38, chapter 3, subchapter 1, article 6 makes a modification in the location, size, character or design of the transmission line, the person proposing the transmission line shall:

A. Deliver a copy of the order to the commission; and [1987, c. 141, Pt. A, §6 (NEW).]

B. State the nature of the modifications and all cost adjustments occasioned by the modifications to the cost of the proposed transmission line relied upon by the commission in issuing its certificate of public convenience and necessity under this section. [1999, c. 398, Pt. A, §46 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF).]

[2009, c. 309, §4 (AMD) .]

8. Cost adjustments. If the cost adjustments specified in subsection 7 exceed the cost relied upon by the commission in the original proceeding under this section by more than 20% of the original cost, the person may not proceed with any construction of the proposed transmission line, the commission's original certificate of public convenience and necessity notwithstanding. The commission, upon notification of the cost increase, shall:

A. Reopen its original decision concerning the transmission line; [1999, c. 398, Pt. A, §46 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF).]

B. Make specific findings with regard to the need for the transmission line to the same extent and with the same authority as if the person's petition for approval were before it; and [2007, c. 148, §7 (AMD) .]

C. Except as modified in this section, retain all authority granted to it under section 1321. [1987, c. 141, Pt. A, §6 (NEW).]

[2007, c. 148, §7 (AMD) .]

9. Filing fee; waiver of fee. When a petition is filed under this section, the person or persons involved shall pay to the commission an amount equal to 2/100 of 1% of the estimated cost to erect, rebuild or relocate the transmission line provided that in the case of a petition filed under subsection 2, the fee is 4/100 of 1%. The person may, at the time of the filing of notice of its intent to file the petition, or, in the case of lines subject to subsection 2, at the time of the filing of the petition, request the commission to waive all or a portion of the filing fee. The commission shall rule on the request for waiver within 30 days.

Filing fees paid as required under this subsection must be segregated, apportioned and expended by the commission for the purposes of this section. Any portion of the filing fee that is received from any person and is not expended by the commission to process the petition for a certificate of public convenience and necessity must be returned to the person.

[2007, c. 148, §8 (AMD) .]

10. Exemption from filing fees. Notwithstanding any other requirement in this section, the commission may, by rule, exempt from filing fees applications concerning transmission lines the review of which does not place an unusual burden on the commission's budget.

[1999, c. 398, Pt. A, §46 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

10-A. Filing fee to Office of the Public Advocate. When a person pays a filing fee to the commission pursuant to subsection 9, the person shall, at the same time, pay to the Office of the Public Advocate an amount equal to 1/100 of 1% of the estimated cost to erect, rebuild or relocate the transmission line. The person may, at the time of the filing of the petition under this section, request the Office of the Public Advocate to waive all or a portion of the filing fee. The Office of the Public Advocate shall decide on the waiver request within 30 days.

Filing fees paid as required under this subsection must be segregated, apportioned and expended by the Office of the Public Advocate for the purposes of representing the interests of consumers in the proceeding before the commission or conducting public outreach to inform consumers about the proceeding. The Office of the Public Advocate shall return any portion of the filing fee that is not expended for these purposes to the person who paid the fee.

[2009, c. 26, §1 (NEW) .]

10-B. Office of the Public Advocate reporting requirement; repeal.

[2009, c. 26, §2 (NEW); T. 35-A, §3132, sub-§10-B (RP) .]

11. Amendments, extensions and renewals.

[1993, c. 91, §2 (RP) .]

11-A. Amendments, extensions and renewals of contracts originally subject to commission approval. This section applies to any amendment, extension or renewal of any contract between a person and other parties with an ownership interest governing the terms of their participation in the construction of a transmission line subject to this section, if the original contract was subject to approval by the commission. The commission may waive the approval requirements of this section with respect to a particular amendment, extension or renewal or a group of amendments, extensions or renewals upon request. If the commission does not respond to a request for waiver within 30 days, the request is deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver and procedures for the expeditious processing of requests in certain circumstances.

[2007, c. 148, §9 (AMD) .]

11-B. Amendments, extensions and renewals of contracts not originally subject to commission approval. For any amendment, extension or renewal of any contract otherwise subject to this section, but when the original contract was not subject to approval by the commission, the person shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval under this section is not required.

[2007, c. 148, §10 (AMD) .]

12. Waiver of notice. The commission may waive any of the notice requirements in this section in advance of filing.

[1989, c. 60, §6 (NEW) .]

13. Public lands. The State, any agency or authority of the State or any political subdivision of the State may not sell, lease or otherwise convey any interest in public land, other than a future interest or option to purchase an interest in land that is conditioned on satisfaction of the terms of this subsection, to any person for the purpose of constructing a transmission line subject to this section, unless the person has received a certificate of public convenience and necessity from the commission pursuant to this section.

A. [2009, c. 123, §6 (RP).]

B. [2009, c. 123, §6 (RP).]

A person who has bought, leased or otherwise been conveyed any interest in public land for the purpose of constructing a transmission line may not undertake construction of that line except under the terms of the certificate of public convenience and necessity as originally issued for that transmission line by the commission or as modified by order of the Department of Environmental Protection under subsection 7 or under the terms of an amended certificate of public convenience and necessity issued by the commission or deemed to have been issued by the commission under subsection 11-A.

As used in this subsection, "public land" means land that is owned or controlled by the State, by an instrumentality of the State or by a political subdivision of the State.

As used in this subsection, "future interest or option to purchase an interest in land" includes an option, purchase and sale agreement or other equivalent legal instrument that conveys the intent to pursue a future sale, lease or other conveyance of land.

[2009, c. 655, Pt. C, §3 (AMD) .]

14. Customer cost impact. Notwithstanding any other provision of this section, the commission may not issue a certificate of public convenience and necessity that has the effect of eliminating the independent system administrator for northern Maine or eliminating or materially modifying the scope of responsibilities of the independent system administrator for northern Maine unless the certificate is subject to a requirement for the full compensation for the net adverse effects on ratepayers as determined by the commission. The determination of the net adverse effects must include, but is not limited to, known and measurable transmission cost effects. Compensation required by this section must be provided to affected ratepayers through a rebate, reduction in rates or other appropriate compensation mechanism benefiting affected ratepayers in the area of the State in which the retail electricity market is administered by the independent system administrator for northern Maine. Compensation required by this section must be calculated for and provided to affected ratepayers over a period of not more than 10 years.

[2009, c. 285, §1 (NEW) .]

15. Advancement of nontransmission alternatives policies. The commission shall advocate in all relevant venues for the pursuit of least-cost solutions to bulk power system needs on a total cost basis and for all available resources, including nontransmission alternatives, to be treated comparably in transmission analysis, planning and access to funding.

[2013, c. 369, Pt. C, §7 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1987, c. 387, §§1,2 (AMD). 1987, c. 490, §A5 (AMD). 1989, c. 60, §§1-6 (AMD). 1989, c. 796, §§1,2 (AMD). 1991, c. 640, §§2-4 (AMD). 1993, c. 91, §§2,3 (AMD). 1995, c. 254, §6 (AMD). 1997, c. 710, §6 (AMD). 1999, c. 398, §A46 (AMD). 1999, c. 398, §§A104,105 (AFF). 2003, c. 506, §§12,13 (AMD). 2007, c. 148, §§1-11 (AMD). 2007, c. 575, §1 (AMD). 2009, c. 26, §§1, 2 (AMD). 2009, c. 123, §§1-6 (AMD). 2009, c. 285, §1 (AMD). 2009, c. 309, §§1-4 (AMD).

2009, c. 615, Pt. A, §1 (AMD). 2009, c. 655, Pt. A, §§4, 5 (AMD). 2009, c. 655, Pt. C, §3 (AMD). 2011, c. 281, §1 (AMD). 2013, c. 369, Pt. C, §§2-7 (AMD).

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